



Appeal Decision

Site visit made on 28 February 2024

by David Smith BA(Hons) DMS MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12th March 2024

Appeal Ref: APP/A2280/W/23/3323335

Land east of Rainham Pumping Station and north of Lower Rainham Road, Rainham, ME8 7TX

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
 - The appeal is made by Mr Graham Ralph against the decision of Medway Council.
 - The application Ref is MC/22/1867.
 - The development proposed is construction of 2 detached residential properties with associated parking, access and landscaping works.
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Decision

1. The appeal is allowed and planning permission is granted for construction of 2 detached residential properties with associated parking, access and landscaping works at land east of Rainham Pumping Station and north of Lower Rainham Road, Rainham, ME8 7TX in accordance with the terms of the application, Ref MC/22/1867, subject to the 14 conditions in the attached schedule.

Application for costs

2. The application for costs made by the appellant against the Council is the subject of a separate decision.

Main Issue

3. This is the effect of the vehicular movements associated with the proposed development on the road network and on highway safety along Lower Rainham Road.

Reasons

4. The appeal site comprises an overgrown and unused parcel of land. There is housing on two sides and a pumping station immediately to the west.
5. Lower Rainham Road (B2004) provides a key link between Rainham and Gillingham that carries through and local traffic and provides an alternative to the A2. The appellant's traffic count was undertaken over a week in April 2023 and recorded average daily weekday flows of 3,416 eastbound and 4,184 westbound. There are several traffic calming measures along the length of the road which were introduced due to its narrowness in places, the level of use and traffic speeds.
6. These measures include the chicane in front of the appeal site. Physical works restrict the width of the road at one point to a single vehicle and road markings and signage indicate that priority is given to westbound traffic. Eastbound traffic is expected to 'give way'. Local residents refer to this feature as a

'bottleneck' that is overloaded at peak times. There is also yellow cross hatching at the junction with West Motney Way to allow vehicles to exit from that road. The proposed access would be taken from within the area where traffic is restricted to single file. The requisite sightlines can be achieved within the appeal site or on highway land.

7. The development is likely to generate about 11 vehicular movements in total on a weekday. Around two of them would be expected to occur in both the morning and evening peak periods. These journeys would represent an increase of less than 0.2% over existing volumes during the peak times and over an entire weekday. There would therefore be an insignificant impact on traffic flows as a whole.
8. Furthermore, there are seven properties on the southern side of the road with existing dropped kerb crossovers in the vicinity of the traffic control. The analysis undertaken shows that there is no obvious correlation between arrivals and departures from these private driveways and the average queue length in either direction. Future residents might need to be patient when exiting their properties but that does not amount to an objection to the scheme.
9. The survey data shows that queues average 10 or more vehicles in length for some of the 15-minute periods during the peak times. This supports the contention that the chicane is a 'pinch point' that causes hold ups. Reference is also made to road rage and fights – presumably as drivers get frustrated and dispute who has right of way. However, coupled with the evidence about existing accesses onto the road nearby, the low volume of traffic associated with the proposal would not markedly increase congestion or make matters worse. Indeed, there would be no adverse effect on the road network.
10. Based on data from the CrashMap website the Council refers to three accidents along Lower Rainham Road in the vicinity of the appeal site since 2015. However, no details of these are provided. A more serious accident took place to the east away from the appeal site. Local residents also mention accidents but there is no further information about them. The appellant gives details of a single personal injury collision within the traffic-controlled give-way junction. However, this was not due to its operation or to vehicles egressing the private driveways. Therefore, the evidence does not indicate that there are significant safety issues along this section of Lower Rainham Road.
11. In practical terms, drivers turning right out of the appeal site to head west may have to join the end of a stream of traffic heading in that direction. This may cause those travelling east to wait a bit longer than they otherwise would. However, this is a straight and short section of road where drivers would be able to see other vehicles approaching, turning or waiting and respond accordingly. The average recorded speed is just over 23mph and vehicles are likely to be going slowly if moving off from a standing start. All in all, and given the limited number of movements that the proposal would generate, the likelihood of collisions occurring is very low.
12. The pavement on both sides of Lower Rainham Road is narrow here but the proposal would not change this. As it would increase traffic through this area by a tiny fraction the resulting risk to pedestrians would be minimal.
13. Therefore, there would be no unacceptable impact on highway safety. The proposal would not conflict with Policies T1 or T2 of the Medway Local Plan as it

would not significantly add to the risk of road traffic accidents or be detrimental to safety.

Other Matters

14. Other objections raised by local residents were addressed in the report to Committee. Whilst providing a visual break, the site is largely surrounded by other development and contributes little to the value of the Area of Local Landscape Importance. It is not designated as land to be protected as green space and the trees along the frontage would be retained to provide screening. There is no evidence that air quality would be negatively affected and climate change measures are proposed. Biodiversity improvements and the carrying out of a reptile survey could be secured by condition.
15. Adequate separation would be provided between the proposed and adjoining dwellings and their relationships would be typical of those between residential properties. There are no technical objections to the proximity of the proposed houses to the pumping station or an electricity sub-station or in relation to water supply. Even in conjunction with other new homes in the area, there is no clear evidence that health services are over stretched and no contributions are sought to deal with the consequences for local infrastructure. None of these matters amount to objections to the scheme.
16. As of March 2022, the Council had a five year housing land supply of 3.4 years which equates to a deficit of 3,220 dwellings. There is no more up-to-date information about the position in Medway and there is no objection to the proposal in any event. Nevertheless, the provision of two additional dwellings would make a small but useful contribution to the housing stock.
17. The appeal site is within 6km of the North Kent Marshes Special Protection Area (SPA) which provide habitats for overwintering birds. Because of its proximity, the proposal has the potential to affect its features of interest. In combination with other development, the occupation of the houses would be liable to lead to recreational disturbance. There would therefore be a likely significant effect on the SPA.
18. To mitigate this impact, the Council expects that a financial contribution is made to the Thames, Medway and Swale Estuaries Strategic Access Management and Monitoring Strategy. Natural England confirms that there are measures in place to manage potential impacts through the agreed strategic solution which is ecologically sound. The appellant has paid the bird mitigation tariff and so this has been secured. The Council is therefore satisfied that the proposal would put in place adequate measures to mitigate potential adverse impacts. As a result, following an appropriate assessment, the proposal would not adversely affect the integrity of the North Kent Marshes SPA.

Conditions

19. The approved plans should be specified in the interests of certainty. There is no need to list those provided for illustrative or comparative purposes. To ensure a satisfactory appearance, details of external materials and landscaping are necessary and existing trees should be protected. The parking spaces should be provided so that the development functions properly and visibility secured in the interests of highway safety.

20. To safeguard the amenities of those nearby, the construction process should be controlled by a management plan. The noise measures referred to in the assessment should be incorporated to ensure satisfactory internal living conditions for future occupiers. To protect their privacy, details of boundary treatments are required. The proposed houses are quite large and together with the parking and turning areas would occupy a large proportion of the site. On this basis, it is necessary and reasonable to remove permitted development rights for extensions, roof enlargement and outbuildings.
21. Government policy seeks contributions to enhance the natural environment and so details of measures to improve biodiversity in line with the ecological appraisal's recommendations should be given. On a precautionary basis a further reptile survey should be undertaken. To meet the challenge of climate change, the energy efficiency measures put forward should be implemented.
22. Some of the details referred to by these conditions are required before construction starts as they would affect that process and so need to be agreed prior to commencement. Where necessary, the wording of the suggested conditions has been adjusted for simplicity and clarity.
23. The requirement to provide facilities for charging electric vehicles is covered by the Building Regulations and there is no need to duplicate those controls. Given the lack of any evidence about potential contamination at the site other than reference to a history of works nearby, a precautionary condition regarding unexpected discoveries is unnecessary. The location of the site is not so sensitive that external lighting should be controlled. There is nothing particular about the relationship with neighbouring properties that warrants preventing changes from Use Class C3 to Class C4 as permitted development.

Conclusion

24. The proposal would accord with the development plan. There are no material considerations to outweigh that finding. Therefore, for the reasons given, the appeal should succeed.

David Smith

INSPECTOR

SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the drawings listed below:

DHA/15984/01 Rev A – Site Location Plan
DHA/15894/03 Rev D - Proposed Site Layout Plan
DHA/15984/04 Rev A - Proposed Plans: Plot 1
DHA/15984/05 Rev A - Proposed Elevations: Plot 1
DHA/15984/06 - Proposed Plans: Plot 2
DHA/15984/07 - Proposed Elevations: Plot 2
DHA/15984/08 - Proposed Plans and Elevations: Plot 2 Garage
DHA/15894/09 Rev C - Existing and Proposed Street Scene and Site Sections
DHA/15894/12 - Proposed Ecology Plan
DHA/16976/H-01 Rev P1 - Visibility Splays
- 3) No development above slab level shall take place until details of all external materials have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 4) Each of the dwellings hereby permitted shall not be occupied until boundary treatments have been erected around the plot in accordance with details of their position, design, materials and type previously agreed in writing by the local planning authority.
- 5) No development above slab level shall take place until a landscaping scheme has been submitted to and approved in writing by the local planning authority. This shall include details of:
 - i. Soft landscape works, including details of planting plans, tree positions, planting build ups, written specifications (including cultivation and other operations associated with grass, tree and planting establishment, aftercare, and maintenance); schedules of plants, noting species, plant sizes, root treatments and proposed numbers/densities where appropriate;
 - ii. Design and specification of tree planting to enable healthy establishment at maturity. Information should provide details for the planting environment, calculated soil volume, tree support and tie specification, guards and grilles, aeration and irrigation systems, soil build-up information (avoiding the use of tree sand); and
 - iii. A timetable for implementation.

The approved landscaping scheme shall be carried out in accordance with the timetable for implementation. Any trees or other plants approved as part of the landscaping scheme which die, are removed or become seriously damaged or diseased within five years of planting shall be replaced in the next planting season with others of a similar size and species unless the local planning authority gives written consent to any variation.
- 6) No development shall take place until details of tree protection measures based on the Arboricultural Tree Survey and Impact Assessment Report accompanying the application have been submitted to and approved in

- writing by the local planning authority. This shall include details of trees to be retained and of tree protection fencing. The approved fencing shall be erected before any equipment, machinery or materials are brought on to the site for the purposes of the development, and shall be maintained until all equipment, machinery and surplus materials have been removed from the site. Nothing shall be stored or placed in any area fenced in accordance with this Condition and the ground levels within those areas shall not be altered, nor shall any excavation be made without the written approval of the local planning authority.
- 7) The development hereby permitted shall include the measures specified in the Climate Change and Energy Efficiency Statement accompanying the application. The development shall not be occupied until a verification report, prepared by a suitably qualified professional confirming all the specified measures have been implemented, has been submitted to and approved in writing by the local planning authority.
 - 8) No development shall take place until a Construction Environmental Management Plan has been submitted to and approved in writing by the local planning authority. This shall include details of hours of construction working; measures to control noise affecting nearby residents; wheel cleaning/chassis cleaning facilities; dust control measures; pollution incident control and site contact details in case of complaints. The construction works shall be carried out at all times in accordance with the approved Construction Environmental Management Plan.
 - 9) No development above slab level shall place until a scheme for protecting occupiers of the development hereby permitted from noise (in accordance with the measures described in the Noise Assessment accompanying the application) has been submitted to and approved in writing by the local planning authority. Neither of the dwellings hereby permitted shall be occupied until the approved scheme for that dwelling has been completed and those measures shall thereafter be retained.
 - 10) Neither of the dwellings hereby permitted shall be occupied until the vehicle parking spaces to serve it have been provided in accordance with the approved drawings. Thereafter the parking spaces shall be retained for those purposes.
 - 11) No development shall take place until a precautionary mitigation strategy for reptiles has been submitted to and approved in writing by the local planning authority. The approved strategy shall be implemented in accordance with a timetable agreed in writing by the local planning authority.
 - 12) No development above slab level shall place until details of biodiversity enhancements (based on the recommendations of the Preliminary Ecological Appraisal Survey Report accompanying the application and as shown on the Proposed Ecology Plan) have been submitted to and approved in writing by the local planning authority. The approved enhancements shall be implemented prior to the first occupation of either of the dwellings hereby permitted and thereafter retained.
 - 13) Visibility splays of 2.4m x 25m, as shown on the approved drawings, shall be provided on both sides of the vehicular access prior to first occupation of either of the dwellings hereby permitted. No fence, wall or other obstruction to visibility over 0.6m in height above ground level shall be erected within the area of the splays.

- 14) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any order amending, revoking and re-enacting that Order with or without modification) no development shall be carried out within Schedule 2, Part 1, Classes A, B and E of that Order.